

### **REMARKS/ARGUMENTS**

The Office Action of June 24, 2004 has been carefully reviewed and considered. In the Office Action, claims 24, 25 and 29 were objected to, but would be allowed if rewritten in independent form. Claims 18-22, 24, 25 and 27-29 were rejected under the judicially created doctrine of obviousness-type double patenting. Claims 18-22, 27 and 28 were also rejected under 35 U.S.C. §102(b).

Claims 18, 21, 24, 25, 28 and 29 have been amended. Claims 24 and 29 have been rewritten in independent form as suggested in the Office Action. Claims 34-44 have been cancelled. Claim 1, 8-10, 23, 26 and 30 have been withdrawn. Claims 18-22, 24, 25 and 27-29 remain pending and considered in this application.

An aspect of the present invention relates to a guiding and supporting member that can be used to maintain a flexible article, such as a cable, at a predetermined bend radius. This guiding and supporting member comprises a first end that can be securely retained within an aperture of a cooperating member, such as that shown in Figure 1. The first end of the guiding and supporting member includes a first circumferential flange, a second circumferential flange and seat that extends between the flanges for receiving an inner surface of the cooperating member's aperture when the at least one end is retained within the aperture. In another embodiment, the guiding and supporting member can include a set of spaced flanges at about its longitudinal midpoint for receiving an inner surface of the aperture.

The guiding and supporting member permits flexible articles to be pulled along a pathway using a minimum amount of force and causing a minimum amount of tension within the flexible article. As a result, these flexible articles can be pulled at tension levels below the

maximum permitted by building codes or recommended within the industry. One reason for this reduction in longitudinal stresses and tension within the flexible articles is the reduction of friction along the pulling pathway. Unlike conventional conduits and cable trays, the guiding and supporting members reduce the amount of surface area in contact with the flexible articles while maintaining recommended bending radii and providing a required amount of support during and after installation.

Claims 18-22, 24, 25 and 27-29 were rejected under the doctrine of obviousness-type double patenting as being unpatentable over claims 14 and 16 of U.S. Patent No. 6,666,415. However, a Restriction Requirement set forth in the application that matured into U.S. Patent No. 6,666,415 (herein after "the '415 patent") caused the present divisional application to be filed and, thus prevents this double patenting rejection from being proper.

M.P.E.P. §804.01 expressly states that a double patenting rejection is not proper in a divisional application that was filed in response to a Restriction Requirement in the parent application. In the application resulting in the '415 patent, the Examiner required the cancellation of claims 18-29 because they were subject to a Restriction Requirement and were considered patentably distinct from the claims that matured into claims 14 and 16 of the '415 patent. By definition, claims 18-29 cannot be subject to a double patenting rejection based on the claims from which they were restricted in the parent application. Withdrawal of the rejection is requested.

Claims 18-22, 27 and 28 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,248,459 to Pate et al. that discloses the use of flexible corrugated conduit sections and straight connector sleeves for a wiring system. The disclosed conduit is flexible so

it can assume any one of a number of curves. Unlike the present invention, neither the flexible corrugated conduit, nor the connector sleeves have a curved body with a predetermined bend as recited in claims 18 and 28.

The connector sleeves disclosed in Figures 1, 4-7 and 8-11 have been relied upon to reject claims 18 and 28. These connector sleeves do not include curved elongated bodies having predetermined bends. Instead, the connector sleeves are illustrated to be straight bodies that are free of curves. Additionally, the connector sleeves are formed of materials that are either (1) flexible so that they conform to any needed curve or (2) rigid so that they remain free of a curve and a predetermined bend. In either embodiment of Pate's connector sleeves, the connector sleeves do not include the recited curved elongated body having a predetermined bend.

Additionally, with respect to Figures 4-7, the blocks at each terminal end of the sleeve cannot fairly be considered the recited circumferential flanges located at the same, first end of the guiding and supporting member. These blocks are at opposite ends of the connector sleeves, not the same end as recited in claims 18 and 28.

For the reasons discussed above, the embodiments illustrated in Figures 4-11 of the patent to Pate do not anticipate the recited guiding and supporting member of claim 18 or the recited sweep of claim 28. Withdrawal of the rejection is requested.


In view of the above discussion, Applicant submits that claims 18-30 are allowable over the prior art. A notice to this effect is requested.

Appln. No.:10/728,841  
Amendment dated September 24, 2004  
Reply to Office Action of June 24, 2004

The Commissioner is authorized to charge any additional fees related to this mater to  
Deposit Account No. 19-0733.

Respectfully submitted,  
BANNER & WITCOFF, LTD.

Dated: September 24, 2004

By:   
Brian E. Hanlon  
Registration No. 40,449

1001 G Street, N.W.  
Washington, D.C. 20001-4597  
Tel: (202) 824-3000  
Fax: (202) 824-3001